

State of Illinois  
OFFICE OF THE GOVERNOR  
Springfield, Illinois 62706

George H. Ryan  
GOVERNOR

July 18, 2001

To the Honorable Members of  
The Illinois Senate  
92nd General Assembly

Pursuant to Article IV, Section 9 (b) of the Illinois Constitution of 1970, I hereby veto and return Senate Bill 720 entitled, "AN ACT in relation to broadcasting."

Senate Bill 720 purports to create the Broadcast Industry Free Market Act. However, this legislation actually attempts to interfere with the free-market conditions of the broadcasting industry. This Act provides that no television, radio, or cable station may require an employee, or prospective employee, to agree as a condition of an employment contract, to refrain from obtaining employment in a specific geographic area for a specific period of time after termination of employment.

Supporters of Senate Bill 720 are attempting to direct the outcome of independent broadcast industry contract negotiations and would awkwardly push the State of Illinois into the role of private party contract negotiator. It is inappropriate for the State of Illinois to dictate to any employee or employer the negotiated terms of their employment arrangement. In all other industries, including the sports and entertainment industries, limitations as to whether employees can pursue future employment with a competitor are determined by the demands of the market place and competitive bargaining rather than the dictates of State government.

Furthermore, Senate Bill 720 would not be effective in meeting its goals of thorough prohibition of non-compete clauses since Illinois State law holds authority only over those agreements finalized within this State. Many broadcasting companies have offices outside the State of Illinois and could simply require that all employment contracts be entered in non-Illinois locations and thus not subject to this proposed legislation.

Finally, Senate Bill 720 as it is currently drafted, attempts to effect current broadcast industry contracts. By enacting this legislation in its present form it would force broadcast companies to rewrite contracts that have already been negotiated and executed. Such an undertaking would be a violation of both the United States and Illinois Constitutions. The Contract Clause of the United States Constitution commands that "{n}o State shall...pass any... Law impairing the Obligation of Contracts." U.S. Const. Art. I, Par. 10, cl. 1. The Illinois Constitution echoes this dictate: "No...law impairing the obligation of contracts...shall be passed." Ill. Const., 1970 Art. 1, Par. 16. The United State Supreme Court has held that where a state statute impairs a contractual relationship, it is void for violating the contract Clause unless the statute passes a two-part test: it must be both "reasonable and necessary to serve an important public purpose." United States Trust Co., 431 U.S. at 25, 97 S. Ct. at 1519. Senate Bill 720 does not meet the requirements of this test.

For these reasons, I hereby veto and return Senate Bill 720.

Sincerely,  
George H. Ryan  
GOVERNOR